

### **IC 3-10-6**

Chapter 6. Municipal and School District Elections in Cities, Large Towns, and Small Towns in Marion County

#### **IC 3-10-6-1**

##### **Application of chapter**

Sec. 1. (a) This chapter applies to municipal and school district elections in the following municipalities:

- (1) All cities.
- (2) Towns having a population of three thousand five hundred (3,500) or more.
- (3) Towns located entirely or partially within a county having a consolidated city, regardless of their population.

(b) Prison inmates may not be counted in determining population size for purposes of this chapter.

*As added by P.L.5-1986, SEC.6. Amended by P.L.6-1986, SEC.12; P.L.11-1988, SEC.3; P.L.3-1993, SEC.100; P.L.15-1995, SEC.2.*

#### **IC 3-10-6-2**

##### **Date of municipal primary; political parties entitled to nominate candidates**

Sec. 2. (a) Except as otherwise provided in this chapter, a municipal primary election shall be held on the first Tuesday after the first Monday in May 2003 and every four (4) years thereafter.

(b) Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election shall nominate all candidates to be voted for at the municipal election to be held in November.

*As added by P.L.5-1986, SEC.6. Amended by P.L.4-1996, SEC.46; P.L.122-2000, SEC.10.*

#### **IC 3-10-6-2.5**

##### **Town ordinance providing length of term for members of legislative body**

Sec. 2.5. (a) This section does not apply to a town located wholly or partially within a county having a consolidated city unless the town has a population of more than one thousand (1,000) but less than one thousand five hundred (1,500).

(b) This section applies to a town that has not adopted an ordinance:

- (1) under IC 18-3-1-16(b) (before its repeal on September 1, 1981); or
- (2) in 1982 under P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988).

(c) Notwithstanding IC 3-10-6-6, a town may adopt an ordinance during the year preceding a municipal election conducted under section 2 of this chapter prescribing the length of the term of office for town legislative body members elected in the municipal election.

(d) The ordinance must provide that:

- (1) no more than fifty percent (50%) of the members will be

elected for terms of three (3) years beginning at noon January 1 following the municipal election under section 2 of this chapter; and

(2) the remainder of the members will be elected for terms of four (4) years beginning at noon January 1 following the election.

*As added by P.L.11-1988, SEC.4. Amended by P.L.3-1990, SEC.7; P.L.3-1997, SEC.231; P.L.170-2002, SEC.6.*

### **IC 3-10-6-2.6**

#### **Election of town officers in year of no general election for short term; ordinance**

Sec. 2.6. (a) This section does not apply to a town located wholly or partially within a county having a consolidated city.

(b) This section applies to a town that has adopted an ordinance:

(1) under IC 18-3-1-16(b) (before its repeal on September 1, 1981); or

(2) in 1982 under P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988).

(c) A town may adopt an ordinance during a year in which an election of town legislative body members, a town clerk-treasurer, or a town judge will not occur under section 3 of this chapter.

(d) The ordinance described in subsection (c) must provide that:

(1) the town legislative body members, clerk-treasurer, or judge elected at the next municipal election not conducted in a general election year serve terms of one (1) year; and

(2) the successors of the town legislative body members, clerk-treasurer, or judge described in subdivision (1) shall be chosen at the first general election following the municipal election and serve terms of four (4) years.

*As added by P.L.11-1988, SEC.5. Amended by P.L.3-1990, SEC.8.*

### **IC 3-10-6-3**

#### **Special primary election provisions**

Sec. 3. (a) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter each political party shall, at the primary election in:

(1) May 2002 and every four (4) years thereafter; and

(2) May 2003 and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(a) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(b) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in:

(1) May 2002 and every four (4) years thereafter; and

(2) May 2004 and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(b) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(c) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in May 2004 and every four (4) years thereafter, nominate candidates for the election to be held under section 6(c) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be held under this chapter.

*As added by P.L.5-1986, SEC.6. Amended by P.L.11-1988, SEC.6; P.L.3-1990, SEC.9; P.L.122-2000, SEC.11.*

### **IC 3-10-6-4**

#### **Noncontested primary races; unopposed candidates**

Sec. 4. (a) Except as otherwise provided in this section, all candidates for nomination to an office of the municipality by a major political party must be placed on a primary election ballot for the candidate's party.

(b) If no candidate has filed for the nomination of a party to any office of the municipality, the party may not hold a primary election in the municipality.

(c) Whenever there is no contest in a political party for the nomination of a candidate or candidates for an office, but at least one (1) candidate has filed for the nomination by that political party, the party may hold a primary election for that nomination.

(d) If a party wants to conduct a primary under subsection (c), the county chairman of the party must file a notice with the county election board not later than noon seven (7) days after the final date for filing a declaration of candidacy, stating that the party will hold a primary.

(e) The county election board of the county in which the greatest percentage of the population of the municipality is located shall certify the names of the candidates for each nomination for which there is no contest as though a primary election had been held.

(f) If:

- (1) there is a contest in an election district comprising all or part of a municipality in any party for a nomination for an office; or
- (2) a party has decided to hold a primary election for an office under subsection (c);

the name of each candidate of the political party within the election district shall be placed on the primary election ballot for the election district, whether or not the candidate is opposed.

(g) This subsection applies when:

- (1) there is a contest for nomination by a major political party for at least one (1) of the municipality's legislative body members;
- (2) only the voters who reside in a legislative body district are eligible to vote in the primary election for the political party's

nomination of the legislative body member; and

(3) there is no contest for nomination to an office to be voted on by all voters of the political party of the municipality.

The county election board may, by unanimous vote of the entire membership of the board, adopt a resolution providing that a primary election for the party will be held only in the legislative body election districts in which voters will nominate candidates under subdivision (2). The names of unopposed candidates for the party's nomination for an office to be voted on by all voters of the municipality may not be placed on the ballot used within the election districts for the nomination of candidates under this subsection.

(h) If:

(1) there is no contest in an election district in any party for a nomination for an office; and

(2) no party has decided to hold a primary election for any office under subsection (c);

a primary election may not be held for any municipal office in the election district.

*As added by P.L.5-1986, SEC.6. Amended by P.L.10-1988, SEC.86; P.L.7-1991, SEC.3; P.L.3-1993, SEC.101; P.L.176-1999, SEC.61 and P.L.202-1999, SEC.15.*

### **IC 3-10-6-4.5**

#### **Primary elections**

Sec. 4.5. (a) Notwithstanding section 2 of this chapter, this section applies to a town with a legislative body that adopts an ordinance under IC 36-5-2-4.5.

(b) Unless a primary election is not required under section 4 of this chapter, a primary election shall be held in a town under this section at both of the following times:

(1) During a year that municipal elections are held under section 5 of this chapter.

(2) At the time of the primary election held in the year stated in an ordinance adopted under IC 36-5-2-4.5(c)(2).

(c) At a primary election held under subsection (b), a political party with a nominee who receives at least ten percent (10%) of the votes cast in the state for secretary of state at the most recent election for secretary of state shall nominate candidates for the following town offices:

(1) At the time of the primary held in the town under subsection

(b)(1), the following candidates:

(A) Four (4) candidates for the town legislative body, three

(3) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all candidates are elected from districts.

(B) Candidates for all other town offices other than the town legislative body.

(2) At the time of the primary election held under subsection

(b)(2), three (3) candidates for the town legislative body, two

(2) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all candidates are elected from districts.

The primary election is conducted under this chapter.

(d) Notwithstanding section 5 of this chapter, an election to fill town offices under this section is held as follows:

(1) During a year municipal elections are held under section 5 of this chapter, the following town offices are elected:

(A) Four (4) members of the town legislative body, three (3) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all members are elected from districts.

(B) All other town offices other than the town legislative body.

(2) During a year in which candidates for the town legislative body are nominated under subsection (c)(2), three (3) members of the town legislative body, two (2) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all members are elected from districts.

The election shall be conducted under this chapter.

*As added by P.L.38-1999, SEC.33.*

### **IC 3-10-6-5**

#### **Date of municipal election**

Sec. 5. Except as otherwise provided in this chapter, a municipal election shall be held on the first Tuesday after the first Monday in November 2007 and every four (4) years thereafter. At the election, public officials shall be elected to each municipal office.

*As added by P.L.5-1986, SEC.6. Amended by P.L.4-1996, SEC.47; P.L.122-2000, SEC.12; P.L.14-2004, SEC.81.*

### **IC 3-10-6-6**

#### **Town officers elected in the municipal election**

Sec. 6. (a) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter shall:

(1) at the general election in November 2002 and every four (4) years thereafter; and

(2) at the municipal election in November 2003 and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 following the election, as provided in IC 36-5-2-3. The election shall be conducted under this chapter.

(b) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall:

(1) at the general election in November 2002 and every four (4) years thereafter; and

(2) at the general election in November 2004 and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

(c) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall, at the general election in November 2004 and every four (4) years thereafter, elect a town clerk-treasurer and town court judge (if a town court has been established under IC 33-35-1-1) to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

*As added by P.L.5-1986, SEC.6. Amended by P.L.5-1988, SEC.3; P.L.11-1988, SEC.7; P.L.8-1989, SEC.6; P.L.3-1990, SEC.10; P.L.4-1991, SEC.55; P.L.122-2000, SEC.13; P.L.98-2004, SEC.35.*

### **IC 3-10-6-7 Repealed**

*(Repealed by P.L.4-1991, SEC.147.)*

### **IC 3-10-6-7.5**

#### **Restrictions on municipal office elections; nominees on ballot; exception by resolution**

Sec. 7.5. (a) Subject to subsection (b), an election may not be held for a municipal office if:

(1) there is only one (1) nominee for the office or only one (1) person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5; and

(2) no person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5 that results in a contest for election to the same municipal office.

(b) Except as provided in subsection (c), if there is an election for any office of the municipality, all nominees for each office must be on the ballot.

(c) If:

(1) there is an election for at least one (1) of a municipality's legislative body members;

(2) only the voters who reside in a legislative body district are eligible to vote in the election for a legislative body member; and

(3) there is no election for an office to be voted on by all voters of the municipality;

the county election board may, by unanimous vote of the entire membership of the board, adopt a resolution providing that an election will be held only in the legislative body districts within the municipality in which voters will elect legislative body members under subdivision (2). The names of unopposed candidates for an office to be voted on by all voters of the municipality shall not be placed on the ballot used for the election of municipal legislative

body members under this subsection.

*As added by P.L.8-1992, SEC.12. Amended by P.L.3-1995, SEC.87; P.L.4-1996, SEC.48; P.L.14-2004, SEC.82.*

### **IC 3-10-6-7.6**

#### **Elections for municipal offices; prohibition**

Sec. 7.6. An election may not be held for a municipal office if:

- (1) an election is not required under section 7.5 of this chapter; and
- (2) the approval or rejection of a public question is the only other vote that may be cast on the ballot at the municipal election.

*As added by P.L.3-1997, SEC.232.*

### **IC 3-10-6-8**

#### **Rights, duties, and required assistance**

Sec. 8. Except as otherwise provided in this chapter, the county election board, county executive, circuit court clerk, voters, and members of political parties in each county in which a municipal primary election or municipal election will be held have the rights and shall perform the duties and furnish the assistance that they are required to do for a primary and general election under IC 3-10-1 and IC 3-11-8.

*As added by P.L.5-1986, SEC.6. Amended by P.L.10-1992, SEC.20; P.L.14-2004, SEC.83.*

### **IC 3-10-6-9**

#### **Municipality in different counties; duties of county officers**

Sec. 9. In accordance with IC 3-11-1.5 and to the extent applicable and feasible, the circuit court clerk, the county fiscal body, the county executive, and the county election board of each county in which there are voters who may vote in a municipal election, but who live in a county adjacent to the county in which the greatest percentage of the population of the municipality resides, shall:

- (1) upon written request of their counterpart election officers in the county with the greatest percentage of the population of the municipality, establish precincts for municipal election purposes; and
- (2) supply the precincts established with poll lists and perform all other duties under this title as if the voters were inhabitants of a municipality with the greatest percentage of its population within that county.

*As added by P.L.5-1986, SEC.6. Amended by P.L.10-1988, SEC.87; P.L.13-1988, SEC.7.*

### **IC 3-10-6-10**

#### **Orders and rules; contracts regarding services and supplies**

Sec. 10. The commission shall, if necessary, implement section 9 of this chapter by orders and rules. Local governments may use IC 36-1-7 for contractual agreements concerning the costs of

services, supplies, and equipment required.

*As added by P.L.5-1986, SEC.6. Amended by P.L.2-1996, SEC.121.*

### **IC 3-10-6-11**

#### **Municipal precincts; use of adjoining precinct polls**

Sec. 11. If a precinct is wholly or partly in a municipality, the executive of the county that contains the greatest percentage of the population of the municipality may designate the polls for the precinct to be at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct.

*As added by P.L.3-1987, SEC.184. Amended by P.L.10-1988, SEC.88.*

### **IC 3-10-6-12**

#### **Nomination for town office**

Sec. 12. (a) This section applies to a political party:

- (1) not qualified to conduct a primary election under IC 3-10; and
- (2) not required to nominate candidates by a petition of nomination under IC 3-8-6.

(b) The political party may conduct a convention to nominate candidates for city or town office not later than noon on the date specified by IC 3-13-1-7(a)(1) for a major political party to act to fill a candidate vacancy.

(c) The chairman and secretary of the convention shall execute and acknowledge a certificate setting forth the nominees of the convention in accordance with IC 3-8-5-13. The certificate must be filed with the circuit court clerk of the county containing the greatest percentage of population of the municipality not later than noon on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.

(d) Each candidate nominated under this section shall execute a consent to the nomination in the same form as a candidate nominated by petition under IC 3-8-6. The consent must be filed with the certificate under subsection (c).

(e) A candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to the nomination. If there is a difference between the name on the candidate's consent to the nomination and the name on the candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

(f) A question concerning the validity of a candidate's nomination under this section shall be determined by a county election board in accordance with IC 3-13-1-16.5(b) and IC 3-13-1-16.5(c).

(g) A nominee who wants to withdraw must file a notice of withdrawal in accordance with IC 3-8-7-28.

*As added by P.L.3-1995, SEC.88. Amended by P.L.144-1999, SEC.6; P.L.202-1999, SEC.16; P.L.9-2004, SEC.15.*

### **IC 3-10-6-12.5**

#### **Notice to withdraw**

Sec. 12.5. (a) This section applies to a candidate:

- (1) of a political party that is not a major political party; and
- (2) nominated by a convention under section 12 of this chapter.

(b) A county election board may not include the name of a candidate on the municipal election ballot if the person files a notice to withdraw with the board. The notice must:

- (1) be signed and acknowledged before an officer authorized to take acknowledgments of deeds;
- (2) have the certificate of acknowledgment appended to the notice; and
- (3) be filed with the board not later than noon three (3) days after the adjournment of the convention.

*As added by P.L.176-1999, SEC.62 and P.L.202-1999, SEC.17.*